

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, February 03, 2017

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Siddoway, Vice Chairman Hagedorn, Senators Davis, Hill, Winder, Lodge, Lakey, Stennett, and Buckner-Webb

**ABSENT/  
EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Siddoway** convened the meeting at 8:01 a.m., welcomed those attending, and asked the secretary to take a silent role call.

**VOTE ON  
GUBERNATORIAL  
APPOINTMENT:** The Gubernatorial reappointment of Warren Bakes to the Idaho Endowment Fund Investment Board.

**MOTION:** **Senator Winder** moved to send the Gubernatorial reappointment of Warren Bakes to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that he be confirmed. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

**S 1031:** **Tracy Schaner**, Deputy Administrator for the Idaho Division of Veteran's Services (IDVS), explained that **S 1031** amends Idaho Code § 65-208. **Ms. Schaner** stated veterans who resided in rural communities face challenges to access health care and wellness services. In 2002, the Legislature approved this program to provide wheelchair bound veterans with financial assistance for transportation to and from medical appointments. The voucher reimbursement system limits the IDVS's ability to administer this program with transportation carriers, particularly in rural areas. **S 1031** proposes a statutory amendment to the Wheelchair Transportation Program to change payments from a voucher reimbursement system to a payment authorization program. The amendment gives the IDVS latitude to authorize grant money and enter into agreements with commercial transportation carriers. Statute currently provides only transportation to and from medical appointments. This amendment would allow payment authorization for wheelchair confined veterans to receive transportation for meeting daily necessities of life. The Disabled American Veterans (DAV) organization operates shuttle routes throughout the State for ambulatory veterans' medical appointments but is unable to transport wheelchair-confined veterans due to insurance and liability issues.

**Ms. Schaner** stated that the appropriation for the fund is currently \$7,000 each fiscal year. In 2002, the Legislature approved \$30,000 for the creation of the program. The IDVS requested a decrease to \$7,000 due to the inability to leverage the program across the State. **Ms. Schaner** stated that if the amendment is approved, the IDVS would like to evaluate the future demand for services, and in fiscal year 2019 reevaluate the budget based on service need. She asked that **S 1031** be approved as proposed.

**Chairman Siddoway** asked whether the current \$7,000 has fluctuated.

**Ms. Schaner** stated the IDVS's intent was to access the funds and make a determination about any funding changes that may be needed. The program was being expanded. The Idaho Department of Transportation (IDT) may enter into an agreement with IDVS to combine resources. **Chairman Siddoway** asked if the money was distributed to the provider in a lump sum or a per-ride basis. **Ms. Schaner** stated IDVS would like to give the grant money to the carrier and have them administer the program.

**Vice Chairman Hagedorn** asked if the \$7000 were general fund dollars or federal dollars. **Ms. Schaner** stated they were statutory general fund dollars.

**MOTION:**

**Vice Chairman Hagedorn** moved to send **S 1031** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**S 1035**

**Larry Johnson**, Investment Manager for the Endowment Fund Investment Board (EFIB), stated that **S 1035** changes compensation for EFIB members from salary to an honorarium. The primary advantage is the board members who are eligible for pay are not restricted from making individual retirement account deductible contributions. If the EFIB member's compensation is considered salary, it is part of the Public Employee Retirement System (PERSI). As a member of PERSI, they cannot make a tax deductible contribution to an Individual Retirement Account. **Mr. Johnson** recommended passage of the bill to change from salary to an honorarium.

**Senator Lodge** asked if employees could opt out of the PERSI system. **Mr. Johnson** responded no. Every salaried State employee has to be in the PERSI system and has to make contributions.

**Senator Winder** stated that he would like it on the record that he may have a conflict of interest pursuant to Senate Rule 39(H) because he is a member of the EFIB.

**MOTION:**

**Senator Winder** moved to send **S 1035** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**H 12**

**Tim Hurst**, Chief Deputy of the Secretary of the State's Office, explained that when people intend to run for the Legislature, they look at Idaho Code (I.C.) § 34-614 to identify the qualifications to run, which are: you have to be 21 years of age; a citizen of the United States; and reside in the legislative district for one year. In addition, the Idaho Constitution in Article 6, Section 2, says that in order to serve in the Legislature you must be a citizen of the United States and you must be an elector of the county or district that you represent and also describes what an elector is. **Mr. Hurst** stated that Idaho statute and the Idaho Constitution should provide for the same qualifications. **Mr. Hurst** proposed that in line 15 of **H 12**, the word "resided" be removed, and the words "be a registered elector" be put in the statute so it will match the Constitution.

**Senator Stennett** asked if people had been signing up to run for office without being a registered elector. **Mr. Hurst** replied yes. During Mr. Hurst's tenure, eight people had been told they could not run for the Legislature because they had not been registered electors for a year at the time they filed. One person, Caleb Hansen, sued the Secretary of State. **Senator Stennett** asked for clarification. Did electors have to be registered under a party, or prove they had voted within their area? **Mr. Hurst** replied they had to be a registered elector. Prior to 2012, a person only registered to vote. After 2012, people had to be registered with a

party or unaffiliated with no party affiliation. Currently, a person is not required to be registered with a party; a person can be unaffiliated but must be registered to vote. This bill is making it clear that a person must be registered to vote.

**Senator Hill** asked if the Idaho Constitution required a person to be an elector for one year. **Mr. Hurst** replied that they had to be an elector of the State. It doesn't state length of time. **Senator Hill** asked how citizenship of a candidate was verified. **Mr. Hurst** stated that they don't verify citizenship. The first question on the registration asked if the applicant was a citizen of the United States. By federal law, they can not proceed if the answer is no. County clerks can ask for verification if there is a question about the registration card. **Senator Hill** asked if age was verified. **Mr. Hurst** responded that they do verify age. **Senator Hill** clarified that a person wishing to run for the Legislature had to be verified to be age 18, and to have been a voter for at least one year. **Mr. Hurst** replied in the affirmative. Statute requires that a person must live within the district for one year. Idaho Constitution states they have to be a registered elector. **Senator Hill** stated he did not think the Idaho Constitution said they had to be registered, just an elector. **Mr. Hurst** read from the Idaho Constitution, Article 6, Section 2, which says, "Qualifications of Electors. "Every male or female citizen of the United States, eighteen years old, who has resided in this state, and in the county where he or she offers to vote for the period of time provided by law, if registered as provided by law, is a qualified elector".

**Senator Stennett** asked what "registered by law" means. Technically, only the Republican party requires party affiliation. So, by law whoever is required to be registered, has to be registered and those that don't, don't. Is that correct? **Mr. Hurst** said that Idaho statute says that when a person runs for office and files a Declaration of Candidacy, he or she must state a party designation. In a primary election in order to run for the Republican party, you had to be a registered Republican; in order to run for the Democratic party, you had to be a registered Democrat. It doesn't say you have to be registered with a party, you just have to be registered. As a registered Independent, you could not run as a Republican or a Democrat.

**Senator Stennett** asked what happens if you did not move, but your district was reapportioned. **Mr. Hurst** stated legislators are reapportioned out of a district, or combined with a district. You are still a registered elector.

**Senator Davis** stated that the reapportioned legislators would still be in the district although it may have another number. **Senator Davis** referred to I.C. § 34-614 as it is currently written "for one year next preceding a general election". Is that phrase not in the Idaho Constitution? **Mr. Hurst** responded that was correct. **Senator Davis** asked if the phrase imposed a condition of occupancy that was more stringent than what the Idaho Constitution allowed. **Mr. Hurst** said he did not know the answer to that. I.C. § 34-614 states that a person must be 21 years of age; the Idaho Constitution does not. **Senator Davis** asked what the Idaho Constitution did say on age. **Mr. Hurst** said that it was silent on age. **Senator Davis** asked if a person went to file for candidacy, and they simultaneously registered to vote, were they an elector. **Mr. Hurst** said that was correct. **Senator Davis** asked if they had resided, but had not been an elector for one year, would they be eligible to run for office. **Mr. Hurst** said that was correct. **Senator Davis** asked if the lawsuit was dismissed on procedural issues. The language of "for one year" was congruent with the power of the Legislature and Article 3 of the Idaho Constitution. **Senator Davis** stated that it was a policy question that seemed incongruent. **Mr. Hurst** clarified that Article 3, Section 6 of the Idaho Constitution did say they had to be a citizen registered for a year.

**Senator Davis** said that still did not address the age question. **Mr. Hurst** said the Attorney General had not addressed the age question at that time.

**TESTIMONY:**

**Caleb Hansen** represented himself and presented his viewpoint on the case of Caleb Hansen v. Lawrence Denney (2015) in the Idaho Court of Appeals. This case initiated the actions which brought **H 12** before the Committee. A 1998 letter from the Attorney General's office to the Secretary of State's office said if a court case were brought, the definition of elector, legal voter, qualified elector, and registered elector would be the same. That was according to Article 6, Section 2 of the Idaho Constitution which defined the terms. Every statute uses the term "elector" as somebody allowed to register to vote. Statute also discusses who was not allowed to vote. **Mr. Hansen** said an amendment to the bill would clarify the issue of the word "elector." The words "resided" and "shall have been a registered elector" could be replaced with the words "been an elector." An amendment should distinguish between an "elector" and a "qualified elector" by law. **Senator Davis** requested a copy of the 1998 Attorney General's letter. **Mr. Hansen** said he thought the question was raised by the Chairman of the Democratic party, maybe Tony. **Senator Davis** suggested Tony Parks. **Mr. Hansen** responded yes.

**Senator Davis** said that he did not understand the point of Mr. Hansen's testimony. The Idaho Constitution says they had to be an elector and the Secretary of State's office is highlighting that properly. Article 3, Section 6 of the Idaho Constitution has the one year standard and if not, then next year preceding. Couple that language with the elector language and the wording should be sufficient. **Mr. Hansen** stated by adding the word "registered", it changes the definition. It is only electors who are allowed to register. If a registered elector was the same as an elector would mean our statute only allows for people who are already registered to see the County Clerk and register. **Senator Davis** asked what would be done with Article 6, Section 2 of the Idaho Constitution that has the phrase "for the period of time provided by law, if registered as provided by law." **Mr. Hansen** said that sentence must be finished. **Mr. Hansen** said it should say "if registered as provided by law is a qualified elector." This is needed to differentiate between someone who is allowed to register but has not yet. The word "elector" is used throughout statute to fill that meaning.

**Chairman Siddoway** clarified that a person could reside somewhere for a year and meet some of the qualifications to vote. With **H 12**, the year waiting period would not begin until they actually registered.

**Senator Hill** said he did not think the writers of the Idaho Constitution meant Article 6, Section 2 to be a definition of our electors.

**Senator Davis** said this was a policy bill which appears to be incongruent. It gets people excited about candidacy who really are not eligible to be candidates. He believes there is a value to make the statute plain. Can the 21 year old standard be added? Should the bill be amended to remove it? He is inclined to move the bill forward, and get information from the Attorney General's office.

**MOTION:**

**Senator Davis** moved to send **H 12** to the Senate floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

**Senator Stennett** stated the bill should be congruous with the Idaho Constitution before sending it to the floor.

**Senator Lakey** said he was in agreement to send it to the floor, however, he had questions on the age requirements. Age limits were in some portions of the Idaho Constitution, but not in others.

**Senator Hagedorn** concluded the bill was about line 15. Holding up a bill due to questions on line 13 regarding current statute would not be appropriate. He supported sending **H 12** to the floor.

**Senator Davis** said he agreed the bill was about line 15, but while the bill was here, it could be improved. He would be willing to talk to the Majority Leader in the House about making sure the bill was not advanced until the Attorney General's opinion was received.

Motion carried by **voice vote**.

**H 13**

**Mr. Hurst** explained that since 1997 there has been a process to change a political party. If someone wanted to change party affiliation, they had to notify the County Clerk who then notified the existing party chairman about the change. There would be a five day waiting period before that change went into effect. At that time, the only people identified by political party were candidates and office holders. In 2012, everyone had to declare a party. The County Clerk can not accept the filing for partisan office in the primary election from anyone who is not affiliated with that party. **Mr. Hurst** discussed a court case which arose in 2016 in Teton County; Teton County Republican Central Committee v. Hansen (D. Idaho 2016). A county sheriff who was a Democrat wanted to change political parties and run as a Republican. He filed a Declaration of Candidacy on the last day of filing along with a Declaration of Change of Political Party form. The County Clerk would not accept his Declaration of Candidacy because the five day waiting period was not up, therefore his change was not effective. The federal court recommended removing the five day period. The court ruled the sheriff was eligible to run for office. **Mr. Hurst** recommended removing the five day waiting period from the statute.

**Senator Davis** asked if this would limit freedom of association. He asked if Magistrate Judge Candy W. Dale addressed the freedom of association concerns. **Mr. Hurst** said Judge Dale stated there was no uniformity by having two time periods.

**MOTION:**

**Senator Davis** moved that **H 13** be sent to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion.

**Senator Davis** said both **H 12** and **H 13** have problems with the fiscal notes. Joint Rule 18 requires that the fiscal impact needs to be addressed with an explanation about the fiscal impact and if there is not a fiscal impact then why not.

The motion carried by **voice vote**.

**RS 24996C1**

**Senator Buckner-Webb** recapped Kristin Armstrong's accomplishments and requested the Committee to send **RS 24996C1** to print.

**MOTION:**

**Senator Lodge** moved to send **RS 24996C1** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**MINUTES  
APPROVAL:**

**Senator Davis** moved to approve the minutes of January 13, 2017. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

Being no further business, **Chairman Siddoway** adjourned the meeting at 9:15 a.m.

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Senator Siddoway  
Chair

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Twyla Melton, Secretary

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Audrey Hays, Assistant Secretary